



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

█  
Docket No. 7366-24

Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF █, █,  
USN, XXX-XX-█

Ref: (a) 10 U.S.C. §1552  
(b) 10 U.S.C. 654 (Repeal)  
(c) UNSECDEF Memo of 20 Sep 11 (Correction of Military Records Following Repeal of 10 U.S.C. 654)

Encl: (1) DD Form 149 w/attachments  
(2) Naval record (excerpts)

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board) requesting that his record be changed in accordance with references (b) and (c). Additionally, he is requesting payment of the unpaid portion of his reenlistment bonus, as well as the full amount of income he would have earned during his reenlistment period, had he not been involuntarily separated.

2. The Board, consisting of █, █ and █, reviewed Petitioner's allegations of error and injustice on 4 November 2024 and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, applicable statutes, regulations, and policies, to include references (b) and (c).

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. Petitioner enlisted in the U.S. Navy on 17 June 1980 and completed a period of Honorable service on 16 June 1985. He immediately reenlisted and commenced a second period of active duty.

c. On 11 October 1985, Petitioner submitted a statement to the office of naval intelligence admitting to homosexual acts.

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d. Consequently, Petitioner was notified of administrative separation processing due to homosexuality. He waived his procedural rights to consult with counsel and to have his case heard before an administrative discharge board. Ultimately, on 9 December 1985, the Petitioner was discharge for homosexuality with an Honorable characterization of service.

e. Petitioner contends that: (1) being discharged due to his sexuality caused him deep emotional distress and humiliation every time and he presented his DD 214 for employment or to verify his military service, (2) his discharged barred him from pursuing a civilian career with the NSA (National Security Agency) or any intelligence agency, resulting in lost income potential and benefits of a GS employee, (3) he missed the income he would have earned if allowed to complete his second enlistment, as well as the unpaid portion of his Selective Reenlistment Bonus, (4) he was a 4.0 Sailor and deserved better, (5) now, there is a chance to correct this wrong, and (6) on 26 Jun 24, President Biden made a historic and long-overdue decision to pardon LGBT service members, recognizing heir right to serve openly, and (7) inspired by this action, he is finally taking the steps to seek justice. For purposes of clemency and equity consideration, Petitioner provided his DD Form 214s, Naval Criminal Investigative Service (NCIS) Freedom of Information Act exemption documents, and a Naval Investigative Service investigation report dated 16 Oct 85 in support of his application.

f. Reference (c) sets forth the Department of the Defense's current policies, standards, and procedures for correction of military records following the "don't ask, don't tell" (DADT) repeal of 10 U.S.C. 654. It provides service Discharge Review Boards with guidance to grant requests to change the characterization of service to "Honorable," narrative reason for discharge to "Secretarial Authority," SPD code to "JFF," and reenlistment code to "RE-1J," when the original discharge was based solely on DADT or a similar policy in place prior to enactment of it and there are no aggravating factors in the record, such as misconduct. The guidance states in pertinent part:

Although DADT is repealed effective September 20, 2011, it was the law and reflected the view of Congress during the period it was the law...Similarly, DoD regulations implementing various aspects of DADT were valid regulations during that same period...the issuance of a discharge under DADT or that taking of an action pursuant to DoD regulations related to a discharge under DADT should not by itself be considered to constitute an error or injustice that would invalidate an otherwise proper action taken pursuant to DADT and applicable DoD policy. Thus remedies such as correcting a record to reflect continued service with no discharge, restoration to a previous grade or position, credit for time lost...would not normally be appropriate.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. The Board noted that the Petitioner's record indicates he was discharged solely on the basis of homosexuality with no aggravating factors in his record. Therefore, the Board determined it was in the interests of justice to change Petitioner's basis for separation to reflect a "Secretarial Authority" discharge.

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Notwithstanding the recommended corrective action below, the Board determined Petitioner's request for payment of any unpaid portion of his reenlistment bonus and the full amount of income he would have earned during the period of his reenlistment does not warrant relief. As explained above, the action taken to separate Petitioner was not erroneous or unjust based on existing law and policy at the time. Therefore, reference (c) states that remedies that involving changing a record to restore rights lost would normally not be appropriate. Given the totality of the circumstances, the Board determined that Petitioner's request for monetary compensation does not merit relief.

RECOMMENDATION:

In view of the above, the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner be issued a new Certificate of Release or Discharge from Active Duty (DD Form 214) reflecting that, for the period ending 9 December 1985, Petitioner's narrative reason for separation was "Secretary Plenary Authority," the SPD code was "JFF," the separation authority was "BUPERSMAN 3630900," and the reentry code was, "RE-1J."

That no further changes be made to Petitioner's record.

That a copy of this record of proceedings be filed in Petitioner's naval record.

4. It is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

